

COHEN & GREEN

November 1, 2023

BY ECF

Hon. Ann M. Donnelly
United States District Court
Eastern District of New York
225 Cadman Plaza East, 1214 South
Brooklyn, New York 11201

Re: Payamps v. City of New York, 22-cv-00563

Dear Judge Donnelly:

This firm along with co-counsel represents the Plaintiff. On August 9th, Defendants served a Rule 68 Offer of Judgment, attached. On August 15th, Plaintiff accepted the Rule 68 by notifying defense counsel in writing as specified in the Rule 68. Plaintiff respectfully requests that the Court endorse the attached proposed judgment attached.

We thank the Court for its time and consideration.

Respectfully submitted,

/s/

Jessica Massimi

Pronouns: She/Her

COHEN & GREEN P.L.L.C.

Attorneys for Plaintiff

1639 Centre St., Suite 216

Ridgewood, New York 11385

cc:

All relevant parties by ECF.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
KEDWIN PAYAMPS,

Plaintiff,

-against-

**PROPOSED
JUDGMENT**

22-cv-0563 (AMD)(VMS)

THE CITY OF NEW YORK; MAYOR BILL DE
BLASIO;
NEW YORK CITY POLICE DEPARTMENT
("NYPD") COMMISSION DERMOT SHEA; NYPD
CHIEF OF DEPARTMENT TERENCE MONAHAN;
NYPD INSPECTOR JESSE LANCE; NYPD OFFICER
COREY JOHNSON; NYPD OFFICER DANIEL
AUGUSTE (Tax I.D. 961629); NYPD OFFICER
JANELLE NERETTE (Tax I.D. 956972); NYPD
OFFICER KEVIN FORRESTER (Tax I.D. 957596);
NYPD OFFICER NATHANIEL LESTER (Tax I.D.
961885); NYPD OFFICER MATTHEW ERDMAN (Tax
I.D. 960500); NYPD OFFICER RANDY SHAPIRO
(Tax I.D. 920831); NYPD DEPUTY INSPECTOR
KENNETH NOONAN (Tax I.D. 924257), NYPD
MEMBER MATTHEW LAMBERT (Tax I.D. 956820);
NYPD SERGEANT KITWANE LEWIS (Tax I.D.
951915); and NYPD CAPTAIN RYON MALCOLM
(Tax I.D. 925654);

Defendants.

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WHEREAS, Plaintiff commenced this action by filing a complaint on January 31, 2022 alleging that Defendants violated Plaintiff's rights under the federal constitution and state law; and

WHEREAS, on August 9, 2023, pursuant to Rule 68 of the Federal Rules of Civil Procedure, Defendants offered to allow Plaintiff to take judgment against the City of New York for Plaintiff's federal claims (Exhibit 1, Defendants' Rule 68); and

WHEREAS, on August 16, 2023, Plaintiff accepted Defendants' Rule 68 Offer of Judgment;

NOW, IT IS HEREBY ORDERED, ADJUDGED AND DECREED THAT:

1. Pursuant to Rule 68 of the Federal Rules of Civil Procedure, Plaintiff will take judgment against defendant City of New York in this action for the total sum of Fifty Thousand and One (\$50,001.00) Dollars to Kedwin Payamps, plus reasonable attorneys' fees, expenses, and costs to the date of the offer – August 9, 2023 – for Plaintiff Kedwin Payamps federal claims.

2. This judgment shall be in full satisfaction of all federal and state law claims or rights that Plaintiff may have to damages, or any other form of relief, arising out of the alleged acts or omissions of Defendants or any official, employee, or agent, either past or present, of the City of New York, or any agency thereof, in connection with the facts and circumstances that are the subject of this action.

3. This Judgement is made for the purposes specified in Rule 68 of the Federal Rules of Civil Procedure and is not to be construed as an admission of liability by defendants or any official, employee, or agent of the City of New York, or any agency thereof nor is it an admission that Plaintiff has suffered any damages.

4. In accepting the Defendants' offer of judgment, Plaintiff Kedwin Payamps releases and discharges Defendants; their successors or assigns; and all past and present officials, employees, representatives, and agents of the City of New York, or any agency thereof, from any and all claims that were or could have been alleged by Plaintiff Kedwin Payamps arising out of the facts and circumstances that are the subject of this action.

5. By accepting the offer of judgment, Plaintiff waive the Plaintiff's right to any claim for interest on the amount of the judgment.

6. By accepting the offer of judgment, Plaintiff Kedwin Payamps agrees that the aforesaid payment of Fifty Thousand and One (\$50,001) to Kedwin Payamps within ninety (90) days of the date of acceptance of the offer shall be a reasonable time for such payment, unless Plaintiff Kedwin Payamps received medical treatment in connection with the underlying claims in this case for which Medicare has provided, or will provide, payment in full or in part. If Plaintiff Kedwin Payamps is a Medicare recipient who received medical treatment in connection with the claims in this case, the ninety (90) day period for payment shall start to run from the date the Plaintiff submits to Counsel for Defendants a final demand letter from Medicare.

7. By acceptance of this Rule 68 Offer of Judgment, Plaintiff agrees to resolve any claim that Medicare may have for reimbursement of conditional payments it has made as secondary payer, and a Medicare Set-Aside Trust shall be created, if required by 42 U.S.C. § 1395y(b) and 42 C.F.R. §§ 411.22 through 411.26. Plaintiff further agrees to hold harmless defendants and all past and present officials, employees, representatives, and agents of the City of New York, or any agency thereof, regarding any past and/or future Medicare payments, presently known or unknown, made in connection with this matter.

Dated: New York, New York
_____, 2023

HON. _____

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
KEDWIN PAYAMPS ,

Plaintiff,

-against-

THE CITY OF NEW YORK, et al.,

Defendants.
-----X

**DECLARATION OF
SERVICE OF ACCEPTANCE
OF RULE 68 OFFER OF
JUDGMENT**

22-cv-0563 (AMD)(VMS)

JESSICA MASSIMI hereby declares under penalties of perjury:

1. I am over 18 years of age and not a party to this action.
2. On August 15, 2023, I accepted the Defendants' Rule 68 Offer of Judgment by providing written notice as specified in the Offer of Judgment, via email, to Michael Pesin-Virovets, Esq., Senior Counsel, Special Federal Litigation Division, New York City Law Department, at his Law Department e-mail address.

Dated: Brooklyn, New York
August 29, 2023

Jessica Massimi
